IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:06.04.2006

CORAM:

THE HON'BLE MR. JUSTICE P. SATHASIVAM
AND
THE HON'BLE MR. JUSTICE J.A.K. SAMPATHKUMAR

WRIT APPEAL NO.419 of 2006
and WAMP.No.895 of 2006

1. S. Ramesh Kumar
2. S. Suresh Kumar
3. S. Dinesh Kumar .. Appellants

vs.

1. The State of Tamil Nadu
   rep. by its Secretary to Government
   Industries Department
   Fort St. George, Chennai 600 009.

2. The Special Tahsildar (Land Survey)
   Chennai Petroleum Corporation Ltd.,
   Alaghu 1 to 6,
   M.R.L. Aeromatic Complex
   No.4, Genis Salai, Saidapet
   Chennai 600 015.

3. Chennai Petroleum Corporation Ltd.,
   rep. by its Managing Director
   536 Anna Salai,
   Teynampet, Chennai 600 018. .. Respondents

Writ Appeal filed under Clause 15 of the Letters of Patent against the order of the learned Judge Mrs. Justice Prabha Sridevan, dated 14.12.2004 made in W.P.No.16969 of 2004.

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For appellants : Mr.S. Sundara Rajan
For respondents: Mr.R.Muthukumarasamy
Addl. Advocate General
for Mr. A. Jeenasenan

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JUDGMENT

(Judgement of the Court was delivered by P. SATHASIVAM,J.)

The above writ appeal has been filed against the order of the learned single Judge dated 14.12.2004 made in W.P.No.16969 of 2004, in and by which the learned Judge dismissed the writ petition filed for issuance of mandamus restraining the respondents from acquiring or interfering with the peaceful possession and ownership of the petitioners lands in Mathoor Village in Thiruvellore District.

2. Heard Mr. S. Sundara Rajan, learned counsel for the appellants. Even at the admission stage, Mr. R. Muthukumarasamy, learned Additional Advocate General appears for all the three respondents.

3. For convenience, we shall refer the parties as arrayed in the writ petition. The petitioners numbering 3 have approached this Court with a request to issue writ of mandamus restraining the respondents from acquiring or interfering with their peaceful possession and ownership of the lands in Mathoor Village in Thiruvellore District. According to them, they purchased the property on 01.06.2001 in Document No.2934/2001. The affidavit further shows that the petitioners' father in turn purchased the lands under a registered Sale Deed dated 06.03.1996 in Document No.33/97. Further, before purchase, they verified the revenue records and obtained a certificate from the Village Administrative Officer. It is further seen that the petitioners have purchased the property in question only after the acquisition proceedings had reached the final stage.

4. Before the learned Judge, the second respondent, Special Tahsildar (LA) Aromatic Complex MRL, Saidapet, Chennai has filed a counter affidavit highlighting various aspects and the stage of acquisition proceedings. It is seen from the counter affidavit that even on 16.09.1989, the Government accorded administrative sanction for acquisition / transfer of 1655.92 acres of lands in Manali and 5 other villages for setting up an Aromatic Complex and other petro based downstream projects close to Chennai Petroleum Corporation Limited (formerly Madras Refineries Limited). Notification under Section 4(1) of the Land Acquisition Act (in short "L.A. Act") (Central Act) was published in Tamil Nadu Government Gazette on 17.10.1990. The substance of the notification was published in the locality on 22.10.1990 and the declaration under Section 6 of the Act was published in the Government gazette dated 05.08.1992 as well as in Newspapers on 30.07.1992 and 01.08.1992. The substance of the same was also published in the locality on 20.08.1992. Thereafter, notice under Section 9(1) and 10 of the L.A. Act was published in the village on 28.12.1992. The award enquiry was conducted on 11.01.1993 and on subsequent dates. Finally, award was passed on 19.08.1994.

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5. The particulars furnished in the counter affidavit further shows that the land in Survey No.168/2A4A measuring 0.15.0 hectares (0.37 acres) and 168/2B measuring 0.32.5 hectares (0.81 acres) were registered in the name of Elumalai Naicker, S/o. Munusamy Naicker. During the enquiry, he participated and requested payment of compensation in his name and also consented to cut and remove the palmyra trees that stood on the lands. The said Elumalai Naicker and 23 others have filed W.P.No.21527 of 1994, questioning the administrative sanction order passed by the Government. Finally, the said writ petition was disposed of with liberty to make representation to the Government.

6. The petitioners have filed a reply affidavit reiterating their stand.

7. By the impugned order dated 14.12.2004, the learned Judge after taking note of the fact that the writ petitioners have purchased the property only after initiation of acquisition proceedings and also finding that some of the vendors have participated in the award enquiry, dismissed the said writ petition. Questioning the same,, present appeal has been filed.

8. Learned counsel appearing for the appellants contended that based on the patta issued by the competent authority, they purchased the land. In any event, atleast they may be permitted to make a representation to the Government for necessary relief under Section 48-B of the L.A. Act.

9. The learned Additional Advocate General appearing for the respondents after taking us through various details furnished in the counter affidavit with reference to the acquisition proceedings submitted that the details furnished show that thousands of acres have been acquired for the purpose of establishing Aeromatic Complex and other petroleum based downstream projects. It is also the stand of the respondents that at every stage the procedures contemplated under the L.A. Act and Rules have been strictly complied with and according to the learned Additional Advocate General, there is no flaw at any stage. He further informed this Court that after fulfilling all the formalities, the lands were taken possession by the Government on 21.03.2003 and the same were handed over to the third respondent on 11.03.2004.

10. All the above factual details have been considered by the learned Judge. Though it is claimed that the petitioners have purchased the lands based on the patta issued by the revenue authorities, it is not in dispute

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that the lands were acquired by the Government by invoking the provisions of Land Acquisition Act (Central Act) and Rules made thereunder. It is also not in dispute that the authorities concerned have followed and complied with all the mandatory provisions. Merely because their vendors secured patta from the officers concerned, the acquisition proceedings cannot be faulted with. As a matter of fact, on the date when the writ petition came to be filed before this Court in 2004, after completion of the entire acquisition proceedings, possession was taken over by the Government and in turn handed over to the requisitioning body, viz., Madras Refineries Limited. In such circumstances, the relief prayed for in the form of mandamus restraining the respondents from acquiring or interfering with the ownership of the lands cannot be granted and after considering all these aspects, the learned Judge rightly dismissed the writ petition. We are in agreement with the said conclusion; hence, the writ appeal fails and the same is dismissed.

11. At the end of the argument, learned counsel for the petitioners has prayed for permission to make representation to the Government. It is brought to our notice that such request was made before the learned judge, which is evident from para 6 of the impugned order of the learned Judge. After verifying Section 48-B of the L.A. Act, the learned Judge found that only the original owner has right to ask for re-conveyance and the writ petitioners are not the original owners, rejected the said request. In such circumstances, we are of the view that we can not grant permission to make such representation as requested by the petitioners.

12. Before parting with this case, we intend to make the following direction to the Government for serious consideration. The case before us demonstrates that though the writ petitioners verified the revenue records and purchased the lands in question from their vendors based on the patta issued in their favour, in view of the fact that the acquisition proceedings were not brought to the notice of the petitioners by their vendors, now they are not in a position either to participate in the acquisition proceeding, atleast for compensation or agitate the same before any other forum including this Court.

13. The grievance of the petitioners is very pathetic. If the petitioners were aware of the land acquisition proceedings at the time of purchasing lands from their vendors, they would not have purchased same. Therefore, if the land acquisitioning body sent the land acquisition proceedings to the concerned Registration Department immediately after Section 6 Declaration, necessary entries would have been made in the respective records relating to Encumbrance and on verification, the petitioners might have come to the fact of acquisition proceedings. Therefore, the failure in entering necessary information in regard to the acquisition proceedings in the relevant records of the Registration Department led the petitioners to purchase the lands without knowing the

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fact that the lands were already acquired by the Government and this would also give scope for the vendors to deceive the intending purchasers in selling the lands by suppressing the acquisition proceedings.

14. In such circumstances we are of the view that it is but proper, whenever acquisition proceedings are initiated, atleast after the issuance of declaration under Section 6 of L.A. Act, necessary intimation is issued to the Registration Department (Sub-Registrar having jurisdiction of the land under acquisition concerned), it would be useful for the intending purchasers. If the Land Acquisition Officer or Government intimate the details of acquisition to the Sub-Registrar concerned and when the intending purchaser applies for encumbrance certificate, the fact that the land is under acquisition will be known in the certificate. If any such communication is received from the Land Acquisition Officer or any other officer concerned with the Land Acquisition by the Sub Registrar of the area concerned, the same shall be entered in the registers that are being kept in the office of the concerned Sub-Registrar. In that event, if anyone applies for encumbrance certificate to ascertain the title of the land, the Sub-Registrar is duty bound to refer the said fact in the encumbrance certificate applied for. If this is followed it would save the plight of several purchasers, who purchased the land under acquisition. We hope and trust the Government will make necessary provisions in the Land Acquisition Act and Rules and also issue instructions to all concerned.

With the above observation, the writ appeal is dismissed. No costs. Consequently, connected WAMP., is also dismissed.

kh

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To

1. The Secretary to Government
   State of Tamil Nadu
   Industries Department
   Fort St. George, Chennai 600 009.

2. The Special Tahsildar (Land Survey)
   Chennai Petroleum Corporation Ltd.,
   Alaghu 1 to 6
   M.R.L. Aeromatic Complex
   No.4, Genis Salai, Saidapet
   Chennai 600 015.

3. The Managing Director,
   Chennai Petroleum Corporation Ltd.,
   536, Anna Salai, Tynampet,
   Chennai-18.

+ 1 CC To Mr.M.S.Sundararajan, Advocate, SR NO.17214.
+ 1 CC To Mr.A.Jenasenan, Advocate, SR NO.17519.

Judgement in
Writ Appeal No.419 of 2006

HPR(CO)
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